

Remarks

This Amendment is submitted in response to the office action of January 29, 2004 in which all of the claims were rejected and certain formal objections were raised.

Applicant proposes substitution of the title presented above, as being an aptly descriptive and appropriate variant of that proposed in the office action. Favorable consideration is requested.

With reference to paragraph 3, the office action asserts that the term "that draw" lacks antecedent basis. We respectfully disagree with the objection and request reconsideration. The term "that draw" follows the term "prior to each prize draw" and "that draw" is a reference to the draw that is about to be drawn.

Entry of the New Claims 29-60 is Appropriate

As a result of issues of statutory construction raised in connection with a corresponding foreign application, applicant wishes to enter the new claim set 29-60 directed to the gaming system that corresponds to the method of claim 1, et seq. The same limitations found in the previously examined claims 1-28 apply to the new claims 29-60.

Independent Claim 29 is directed to a gaming system to carry out the method of Claim 1. Claim 29 includes control means programmed to conduct a series of prize draws according to the method of claim 1. Claims 30 to 44 which depend from Claim 29 generally correspond to Claims 2 to 17 (Claim 16 omitted) with some changes in wording.

Claim 45 specifies one step of the method to achieve the result, i.e., it more specifically defines the invention by including the step of determining the amount wagered on at least one gaming machine during a selected elapsed period of time preceding the draw.

In order to facilitate consideration of the new claims included in this Amendment, following concordance between the original claims and the new claims is provided by applicant:

Claim No.	Claim No.	Claim No.
1	29	45
2	30	46
3	31	47
4	32	48
5	33	49
6	34	50
7	35	51
8	36	52
9	37	53
10	38	54
11	39	55
12	40	56
13	41	57

14	42	58
15	43	59
17	44	60

In applicant's view, Claim 1 defines the invention by reference to the desired result, that is, the probability of each gaming machine winning the prize is dependent upon at least some of the amount wagered on that gaming machine during an elapsed time period.

Independent Claim 45 is more specifically directed to the method of Claim 1; dependent Claims 46 to 60 generally correspond to Claims 2 to 17 (Claim 16 omitted) with some changes in wording.

**The Claimed Invention is Patentably Distinguishable
Over the Disclosures of the Prior Art**

The present invention broadly comprehends a method and system that is different from those of the prior art in that the probability of a gaming machine (player) winning a jackpot is determined by two factors:

1. The amount wagered on an individual gaming machine; and
2. An elapsed time period having a starting point and a finishing point.

The invention comprehends the calculation (or determination) during a predetermined elapsed period of time, for example, a 30-second timed period, of the amount wagered on an individual gaming machine during that time period. That is to say, the invention

as claimed requires that (1) an elapsed period must be determined and (2) the amount wagered during that elapsed period is measured. Both factors are needed to carry out the method of the invention.

The basic prior art system for awarding gaming machine prizes (excluding jackpots) is to preset the gaming machine to give a winning combination of reels according to a predetermined probability. Thus, the probability of winning a game might be set so that the value of wins returned to a player is 85% or 90% of turnover. Thus, in such systems every time a player pulls the handle or presses the button, the probability of winning a prize is the preset probability of the machine which is not conditioned by the amount wagered on that game or the amount wagered on any previous games although the amount of the win would be factored up by the amount of the wager on the game. The total amount wagered during a previous time period is not determined by the gaming machine with reference to any determined elapsed period. Rather, in the prior art systems it is only the discrete event of a single wager that both triggers the play of the gaming machine and determines the value of the wager on that machine. Time is not a factor used by machines in previously known systems.

Multiple line gaming machines follow the same basic system, except that each "line" is a different combination of reels within a game, so that effectively multiple games are being played coincidentally on the same roll of the reels. Some machines also provide for multiple credits per line, but again that feature merely factors up the amount of the win (if the game wins) **not** the probability of winning. Thus, all known machines (not jackpot systems) award a prize on the basis of a **preset probability**.

The most basic "mystery" **jackpot** system (involving a plurality of gaming machines) is known as the Frankovic style jackpot system which operates by counting signals determined from credits wagered from each of a plurality of linked gaming machines when each gaming machine is played. A portion of the credits is added to the accumulating jackpot by a jackpot controller. Each time an increment is added to the accumulating jackpot (which occurs at each game play), the amount of the jackpot (in cents) is compared to a previously generated random number (known as the "mystery" amount) within a predetermined jackpot range. Eventually, the contribution made by one machine will cause the jackpot to reach (or exceed) the mystery amount and that machine (or the player of that machine) will be the winner of the jackpot.

Another simple form of jackpot system awards the jackpot to a machine (or player of a machine) upon the occurrence of a particular combination of reels, for example, five kings, at which time the player is awarded the jackpot from the accumulating jackpot pool. Such an arrangement has a fixed probability of occurring, regardless of the amount wagered because, again for example, the probability of five kings occurring on the reels for any single game play is preset.

After multiple line machines and machines which provided for multiple credits per line were introduced, some jackpot systems used a modified system so that the amount wagered on one game on each machine altered the probability of that game on that machine winning the jackpot. The probability became proportional to the number of credits wagered on each game. Thus, the player of a machine who played five credits on a game five times the chance of winning the jackpot a player who played

only one credit on his machine. Likewise, a player who played five credits on nine lines increased 45 times the chance of winning the jackpot compared to the person who played only one credit on one line because he was wagering 45 times as much on that game. That is to say, the probability of winning the jackpot was dependent on the amount wagered on the game and had no relationship with to the (or the amount wagered during a predetermined elapsed period. That system is described in WO 99/03078 (Aristocrat Leisure), which is commonly referred to as the Hyperlink system in Australia. However, none of the prior art systems determines probability by reference to the two factors mentioned above, that is, the amount wagered and an elapsed period of time.

In a preferred form of the present invention, the central jackpot controller accumulates the turnover of each gaming machine during a ten-second elapsed period and the base probability (that is, the preset probability) is factored up according to the amount of turnover during that period. The closest that any of the prior art comes to the present invention is to scale up the probability of winning according to turnover (that is, amount wagered) on a particular game. Thus, the present invention moves away from the concept of probability being related to turnover on the current game to turnover during an elapsed period of time. In other words, whereas all previous systems relied on a discrete "event" to record each wager on a game, the present invention looks at the record of accumulated turnover on a machine at a start time, then the record at a finish time (say 30 seconds later) and determines the difference to give the amount wagered on that machine during the elapsed period. The elapsed period

could be 30 seconds, 20 seconds, 10 seconds or any desired elapsed period selected.

The Prior Art Neither Discloses Nor Suggests the Claimed Invention

The office action relies on the Bueschel publication disclosure in rejecting claims 1-6, 17-19 and 24-26 under §102(a). At best, Bueschel teaches a machine in which the probability of winning a prize is dependent on the amount wagered on that game. The amount wagered on subsequent games irrespective of the period of time between games or the number of games played in a period has no bearing on the probability of winning the prize on a particular game. The probability of winning is preset in the machine and depends only on the number of coins played in any one game (or spin).

Claim 1 uses the term "during an elapsed period". During means "throughout" and teaches a starting time and a finishing time. The Federal Court in Australia in relation to infringement litigation of the priority document has stated: "the expression "an elapsed period" means any discrete and finite period of time which has passed, having both a beginning and an end". Thus, Claim 1 contemplates a determination of probability by reference to the amount wagered between a starting time and a finishing time.

Neither Bueschel nor any other prior art cited in the United States, Australia or Great Britain determines turnover on a particular game or throughout a particular period by reference to a starting time and a finishing time. Time is not a relevant factor in any of the prior art systems and such systems do not have the mathematical by dependent relationships required by the limitations of the claims. Claim 1 specifically

requires time to be a factor in determining probability.

Lotteries Are Not Time-Dependent

In paragraph 12, the Examiner refers to lotteries. Applicant acknowledges that the more tickets a player buys in a lottery, the better the player's chances are of winning a prize. However, the player's chances of winning a prize are not in any way dependent on time. While some lotteries close at a specified time or date, it is not correct to assert that the closing time has a bearing on the probability of the person winning the draw. Rather, the probability of a person winning the draw is **preset**. Generally it depends on the number of tickets purchased by the particular player and the total number of tickets sold. The time period during which the tickets were sold is irrelevant.

In this regard, we point out that probability is the ratio of the number of favorable outcomes to the total number of possible outcomes. That ratio is not affected by time in lotteries, whereas Claim 1 requires a mathematically dependent relationship between probability and amount wagered, where the amount wagered is determined by reference to an elapsed period of time (and only for turnover on that machine). That is to say, it has to be possible to write an equation expressing the dependent relationship between probability and turnover in the elapsed period and there must be a mechanism in the system to determine the amount wagered during an elapsed period. Moreover, the present invention relates to machine gaming and the features of lotteries which affect the probability of a player winning are not applicable to machine gaming.

In paragraph 12, the Examiner also refers to "numerous other prior art references". With due respect, the Federal Court in Australia has considered numerous prior art references which were included in the Information Disclosures Statement and all of those references were found not to be bars to patentability by the Federal Court after expert testimony.

In summary, the invention claimed is a "pioneer invention" and that is why the "broad" independent claims are allowable. However, none of the prior art cited of which applicant is aware teaches that the probability of winning is determined by reference to the amount wagered during an elapsed time period. Therefore, we respectfully submit that the invention is entitled to the breadth of protection sought.

Additional Claims Fee

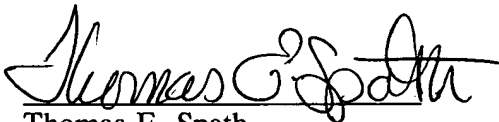
A fee calculation sheet and this firm's check for the additional claims 29-60 entered above is attached. The additional fee is based on a total of 32 new claims, 2 of which are independent (claims 29 and 45).

Conclusion

Favorable reconsideration and allowance of all claims presented is respectfully requested.

Respectfully submitted,

ABELMAN, FRAYNE & SCHWAB
Attorneys for Applicant

By 
Thomas E. Spath
Reg. No. 25,928
150 East 42nd Street
New York, NY 10017-5612
(212) 949-9022